



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,517	09/18/2001	Cyrus E. Tabery	G0228	8552

7590 11/01/2004

Himanshu S. Amin
Amin & Turocy, LLP
National City Center
1900 E. 9th Street, 24th floor
Cleveland, OH 44114

EXAMINER

HASSANZADEH, PARVIZ

ART UNIT	PAPER NUMBER
----------	--------------

1763

DATE MAILED: 11/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/955,517	Applicant(s) TABERY ET AL.	
	Examiner Parviz Hassanzadeh	Art Unit 1763	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1,2,4-20,25 and 26.

Claim(s) withdrawn from consideration: 21-24.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

P. Hassanzadeh
Parviz Hassanzadeh
Primary Examiner
Art Unit: 1763

Continuation of 5. does NOT place the application in condition for allowance because:

On 10/27/04, the Examiner initiated a phone interview with Kevin Dunn (Reg. No. 52,842) to further discuss the invention, and particularly to clarify the limitation "mask creating component fabricating one or more features on an alternative aperture phase shift mask". It was discussed that the prior art method of making such a mask uses a "master mask" as disclosed on page 3 of the specification while the present invention does not use a master mask. The present invention fabricates masks in the absence of a master mask by controlling the mask creating components based on in-situ measurement of the mask feature parameters during the mask creating process.

Examiner suggests that creating mask features directly (in the absence of a master mask) by controlling the mask creating component based on in-situ measurement of the mask feature parameters is a process limitation. Examiner suggests to positively incorporate the process limitation as a function into a controller such as a control (driving) system configured to control the mask creating components during the mask fabrication based on in-situ measurements of the feature parameters. However, the proposed functional limitation incorporated into a control system would require further search and consideration by the Examiner.